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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Jan E. Kruska,) No. CV-08-0054-PHX-SMM
10 Plaintiff,) **ORDER**
11 v.)
12 Perverted Justice Foundation))
13 Incorporated.Org, *et al.*,)
14 Defendants.)

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16 Pending before the Court are Plaintiff's Motion to Compel Disclosure Statement for
17 Defendant Filmax, Inc. (Doc. 38), Motions for Defendant to File Waiver of Service (Docs. 32,
18 34, and 36), Motion to Compel Defendant to Serve Copies (Doc. 32), Motion to Appoint
19 Counsel (Doc. 37).

20 As previously explained by the Court, the appointment of counsel for an indigent
21 plaintiff is a matter of the court's discretion, and the decision will not be overturned absent an
22 abuse of discretion. *See United States ex rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th
23 Cir.1965); Am. Jur. 2d. Fed. Courts § 524. Plaintiff has failed to establish that the appointment
24 of counsel is warranted in this case. Instead, it would behoove Plaintiff to seek legal guidance
25 from any of the volunteer legal aid services available to her in her community. If Plaintiff
26 chooses not to do so, she is advised to familiarize herself with both the Local and Federal Rules
27 of Civil Procedure **before** filing any further documents with this Court.

Furthermore, Defendants' Motions to Dismiss seek to have your case dismissed. A motion to dismiss under Rule 12 of the Federal Rules of Civil Procedure will, if granted, end your case. **When deciding a motion to dismiss, the Court will not consider evidence beyond your pleadings.**

Additionally, you must comply with the following provisions of Rule 7.2 of the Local Rules of Civil Procedure:

(e) **Length of Motions and Memoranda.** Unless otherwise permitted by the Court, a motion including its supporting memorandum, and the response including its supporting memorandum, each shall not exceed seventeen (17) pages, exclusive of attachments and any required statement of facts. Unless otherwise permitted by the Court, a reply including its supporting memorandum shall not exceed eleven (11) pages, exclusive of attachments.

....

(I) **Briefs or Memoranda of Law; Effect of Non-Compliance.** If a motion does not conform **in all substantial respects** with the requirements of this Local Rule, or if the unrepresented party or counsel does not serve and file the required answering memoranda, or if the unrepresented party or counsel fails to appear at the time and place assigned for oral argument, such **non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.**

LRCiv 7.2.

You must timely respond to all motions. The Court may, in its discretion, treat your failure to respond to Defendants' Motion to Dismiss as a consent to the granting of that Motion without further notice, **and judgment may be entered dismissing this action without prejudice** pursuant to Rule 7.2(I) of the Local Rules of Civil Procedure. *See Brydges v. Lewis*, 18 F.3d 651 (9th Cir. 1994) (*per curiam*).

IT IS HEREBY ORDERED DENYING Plaintiff's Motion to Compel Disclosure Statement for Defendant Filmax, Inc. (Doc. 38).

IT IS FURTHER ORDERED DENYING Plaintiff's Motions for Defendant to File Waiver of Service (Docs. 32, 34, and 36).

IT IS FURTHER ORDERED DENYING Plaintiff's Motion to Compel Defendant to Serve Copies (Doc. 32).

IT IS FURTHER ORDERED DENYING Plaintiff's Motion to Appoint Counsel (Doc.

DATED this 14th day of May, 2008.


Stephen M. McNamee
United States District Judge

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United States District Judge